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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

JUAN FLORES-MENDEZ, an individual and
TRACEY GREENAMYER, an individual,
and on behalf of classes of similarly situated
individuals,

Plaintiffs,

vs.

ZOOSK, INC., a Delaware corporation,

Defendant.

Case No.: 3:20-cv-04929-WHA

**DECLARATION OF KILEY LYNN
GROMBACHER IN SUPPORT OF
PLAINTIFFS' REPLY IN SUPPORT OF
CLASS CERTIFICATION**

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DECLARATION OF KILEY LYNN GROMBACHER

I, Kiley Lynn Grombacher hereby declare as follows:

- 1. I am a partner in the law firm Bradley/Grombacher LLP. I am counsel for Plaintiffs Tracy Greenamyre and Juan Flores-Mendez.
- 2. I am thoroughly familiar with, and have personal knowledge of, all of the facts set forth herein. If called as a witness, I could and would competently testify to the information set forth below.
- 3. I have prepared this Declaration in Support of Plaintiffs’ Reply In Support of Class Certification.
- 4. Attached hereto as Exhibit 1 is a true and correct copy of excerpts of the Deposition of Tracy Greenamyre.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed June 24, 2022 in Westlake Village, California.

/s/ Kiley Grombacher
Kiley Grombacher

EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 - - -

5 JUAN FLORES-MENDEZ, an)
individual, and TRACY)
6 GREENANMYER, an individual)
and on behalf of classes of)
7 similarly situated)
individuals,)

8)
Plaintiff,)

9)
vs.) No. 3:20-cv-4929-WHA

10)
ZOOSK, INC., a Delaware)
11 corporation,)

12)
Defendants.)
13)
14)
15)
16)

17 DEPOSITION OF
18 TRACY GREENAMYER
19 Wednesday, May 25, 2022
20)
21)

22 Reported By:
23 MICHELLE K. BAILEY
RPR, CSR No. 10713
24 Job No. 5248609
25 Pages 1 - 83

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

- - -

JUAN FLORES-MENDEZ, an)
individual, and TRACY)
GREENANMYER, an individual)
and on behalf of classes of)
similarly situated)
individuals,)
Plaintiff,)
vs.) No. 3:20-cv-4929-WHA
ZOOSK, INC., a Delaware)
corporation,)
Defendants.)

Deposition of TRACY GREENAMYER, taken on behalf
of the Defendant, beginning at 8:58 a.m., and ending at
10:59 a.m., on Wednesday, May 25, 2022, before MICHELLE
K. BAILEY, RPR, CSR No. 10713.

1 APPEARANCES:

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11
12 ALSO PRESENT:

13 Steven Togami, videographer

Zoe Brown

1	interrogatories are true and correct?	09:15:23
2	A. Yes. That's correct.	09:15:24
3	Q. Okay.	09:15:26
4	Are there any corrections you have to any of	09:15:27
5	the responses as of today?	09:15:32
6	A. No corrections. There was one thing I did	09:15:33
7	leave out that I thought about and didn't put down as a	09:15:38
8	response, and that happened to be with how I had to	09:15:42
9	change my two person -- two signature security signing	09:15:47
10	into my e-mail account. That's something I didn't put	09:15:51
11	down that I figured out later.	09:15:58
12	Q. Sorry to cut you off.	09:16:00
13	And when did you do that?	09:16:02
14	A. I did that after I found out when my data was	09:16:03
15	breached, the security.	09:16:09
16	Q. And to make sure I understand, did you say you	09:16:11
17	put in two factor identification for your e-mail?	09:16:15
18	A. I did. I did.	09:16:17
19	Q. Okay.	09:16:19
20	And how does that work now?	09:16:20
21	A. It works if somebody's trying or I'm trying to	09:16:23
22	get onto my e-mail, I'll receive a text message, or, I	09:16:27
23	have to go into another form of identification in order	09:16:31
24	to get in.	09:16:33
25	Q. Okay. Thank you.	09:16:34

1	and then a law degree through Concord University in	09:24:29
2	Los Angeles.	09:24:32
3	Q. And where are you currently employed?	09:24:33
4	A. I'm currently retired and I retired from the	09:24:35
5	U.S. Department of Veteran's Affairs.	09:24:40
6	Q. When did you retire?	09:24:42
7	A. I retired in 2015.	09:24:43
8	Q. Okay.	09:24:47
9	And how long had you been working at the	09:24:47
10	department of veteran's affairs when you retired?	09:24:49
11	A. Over 20 years.	09:24:52
12	Q. Okay.	09:24:53
13	Since you've been retired, have you had any	09:24:54
14	other employment, part-time or full-time?	09:24:58
15	A. No. Being a mom. That's a job.	09:25:02
16	Q. It certainly is.	09:25:07
17	So I want to talk now about your membership	09:25:09
18	with Zoosk. I just want to reframe where we are now.	09:25:14
19	When did you first create a Zoosk account?	09:25:19
20	A. It was in 2015. I know that because it was	09:25:21
21	after my retirement and my divorce. And the next month	09:25:26
22	I created -- I like wanted to try the online dating.	09:25:33
23	Q. Okay.	09:25:36
24	So I want to go back to one of the documents we	09:25:36
25	already looked at. Actually, that was document we	09:25:42

1	or was that sort of all one transaction, for lack of a	09:33:31
2	better word?	09:33:36
3	A. Mine was all -- I just went for it. I just	09:33:38
4	went for paid subscription. I didn't dabble into the	09:33:42
5	free account. I just said if I'm going to do this, I'm	09:33:45
6	going to do. I'm all in.	09:33:47
7	Q. Okay.	09:33:49
8	And you've touched on this before. But what	09:33:49
9	made you choose to sign up for Zoosk?	09:33:52
10	MS. GROMBACHER: I'll object to norm. No.	09:33:55
11	I'll strike it.	09:33:57
12	Go ahead.	09:33:58
13	THE WITNESS: Actually, I just did a search,	09:33:59
14	you know, what's the best site to go on dating for, you	09:34:04
15	know, singles. And I didn't know. So this popped up.	09:34:09
16	It seemed legit. And a lot of subscribers. And I said,	09:34:13
17	well, this is it. I didn't really even shop around	09:34:18
18	because I just wanted to see what I felt was the best	09:34:21
19	date. And they were the best site. I'm like okay. And	09:34:25
20	let's just -- it seemed reasonable. They were all about	09:34:28
21	this, you know, whatever like was popping up. But I'm	09:34:30
22	like I'm just going to go for it. So that's what -- I	09:34:34
23	didn't do a lot of research into all these different	09:34:37
24	sites. I said this one sounds good and I signed up.	09:34:40
25	///	

1	purchases through Apple, if you recall?	09:47:36
2	A. My credit card.	09:47:39
3	Q. Okay.	09:47:41
4	And what credit card is that?	09:47:41
5	A. Navy Federal.	09:47:44
6	Q. Okay.	09:47:46
7	Do you still have that card?	09:47:46
8	A. No. I canceled it.	09:47:47
9	Q. Did you -- when you canceled it, did you get a	09:47:50
10	new replacement card or did you close the account	09:47:57
11	entirely?	09:48:00
12	A. No. I got a new replacement card.	09:48:00
13	Q. And do you still have the Navy Federal credit	09:48:02
14	card account?	09:48:05
15	A. I do, but it's under a different account.	09:48:05
16	Q. Okay.	09:48:11
17	So you got a different card number? Is that	09:48:12
18	what you mean?	09:48:15
19	A. I had to because of the security.	09:48:16
20	Q. So you mentioned that this was an automatic	09:48:23
21	renewal when you signed up for Zoosk; right?	09:48:26
22	A. Correct.	09:48:29
23	Q. For how many months did you pay this 29.99 for	09:48:30
24	Zoosk?	09:48:36
25	A. As long as I had the Zoosk subscription.	09:48:36

1	Q. Did you ever pay for a three month	09:48:42
2	subscription?	09:48:46
3	A. No. Mine was continuous.	09:48:46
4	Q. Did you ever pay for a six month subscription?	09:48:48
5	A. Like I said, mine was continuous.	09:48:51
6	Q. And for what period do you recall a continuous	09:48:56
7	29.99 subscription?	09:49:02
8	A. Up until I canceled my account.	09:49:04
9	Q. And when was that?	09:49:10
10	A. The account was canceled in 2021, I believe, if	09:49:13
11	I recall, when I was informed of the security, my	09:49:18
12	account being like the security data. When I reached	09:49:32
13	out to them and I couldn't get onto the account.	09:49:35
14	Q. Okay.	09:49:38
15	So I want to go back to the fourth amended	09:49:38
16	complaint again, which is Exhibit No. 34. If you can	09:49:41
17	pull that up. And back to the same paragraph 30 that we	09:49:47
18	were looking at before, which is the bottom of page 6,	09:49:52
19	top of page 7.	09:49:55
20	A. Okay.	09:50:04
21	Q. And if you look at the first sentence at the	09:50:04
22	top of page 7, it says: "Plaintiff upgraded to the	09:50:08
23	premium service, for which she paid a membership fee of	09:50:11
24	approximately \$30 every three months while she was a	09:50:15
25	subscriber of the service."	09:50:18

1 THE WITNESS: They said that my information was 09:55:18
2 in a security compromise. 09:55:20
3 BY MS. HARLOW: 09:55:22
4 Q. Okay. 09:55:24
5 So we're going to introduce the next document, 09:55:24
6 which will be Exhibit No. 37, tab 8. And this is a 09:55:27
7 document produced by you with Bates Greenamyre 000004. 09:55:33
8 (Exhibit 37 marked) 09:55:40
9 THE WITNESS: Okay. It's coming up now. 09:55:54
10 Okay. 09:56:05
11 BY MS. HARLOW:
12 Q. Okay. 09:56:07
13 And do you recognize this document? 09:56:07
14 A. I do. 09:56:09
15 Q. And is it the communication that you were just 09:56:11
16 referring to from Zoosk about a security issue with your 09:56:15
17 account? 09:56:19
18 A. Yes. 09:56:21
19 Q. So what made you contact Zoosk about your 09:56:21
20 account in May 2021? 09:56:26
21 A. I tried to log on my account to check my 09:56:30
22 account, and I couldn't log in. There was no profile. 09:56:33
23 There was nothing. So I reached out to Zoosk, where's 09:56:37
24 my account. And this is what I got, the response. 09:56:43
25 Q. Okay. 09:56:48

1	Q. Do you remember what password you used for your	09:59:18
2	Zoosk account?	09:59:21
3	A. No, not right offhand.	09:59:22
4	Q. Okay.	09:59:27
5	Do you ever reuse the same password on multiple	09:59:27
6	websites or for multiple accounts?	09:59:31
7	A. No.	09:59:33
8	Q. So had you ever used the password that you used	09:59:33
9	for Zoosk for anything else on the Internet?	09:59:38
10	A. No.	09:59:42
11	Q. So I want to go through a little bit more	09:59:43
12	detailed information that you provided Zoosk for your	09:59:50
13	profile. So you already said your name. Did you	09:59:52
14	provide your age or date of birth?	09:59:56
15	A. I did.	09:59:57
16	Q. Did you provide your gender?	09:59:58
17	A. I did.	10:00:02
18	Q. Did you provide your gender preference, as in	10:00:02
19	who you're looking to date?	10:00:08
20	A. I did.	10:00:09
21	Q. Did you provide information about your race or	10:00:09
22	ethnicity?	10:00:14
23	A. I did.	10:00:14
24	Q. What about your religion?	10:00:15
25	A. I don't recall.	10:00:17

1	Q. Did you put in information about your politics	10:00:20
2	or your political affiliations?	10:00:22
3	A. I don't recall.	10:00:24
4	Q. To the extent you recall, was there any	10:00:27
5	information in any of those categories that you added	10:00:32
6	when you revised or updated your profile in 2016?	10:00:35
7	A. Age. They want your age. And location. They	10:00:39
8	want to know the area. I think I said that before.	10:00:52
9	Q. Yes, you did.	10:00:56
10	So for the information that you gave about your	10:00:57
11	gender preference, ethnicity, religion, that sort of	10:01:01
12	information, was it your understanding that that	10:01:05
13	information would be in your profile for others to view?	10:01:06
14	A. Yes, because it was me. They need to -- like I	10:01:10
15	said, it's a virtual me. So they need all that	10:01:17
16	information if they want to know who I am and what --	10:01:19
17	everything about me is there. So of course they would	10:01:24
18	need that information.	10:01:26
19	Q. Okay.	10:01:27
20	And you wanted people to see that information	10:01:27
21	so they could get to know who you are and decide --	10:01:30
22	okay.	10:01:35
23	MS. GROMBACHER: I'll object to form.	10:01:36
24	Go ahead, Tracy.	10:01:37
25	THE WITNESS: Zoosk encourages you to put	10:01:38

1	A. Says as in their procedures or their policy?	10:02:58
2	Q. Just what do you remember about the terms of	10:03:05
3	use that you read?	10:03:07
4	A. Like it's -- like I said, it was seven years	10:03:14
5	ago. I don't recall everything. I just know that I was	10:03:17
6	signing up for a service and that I felt my information	10:03:20
7	would be, you know, protected.	10:03:26
8	Q. Okay.	10:03:30
9	A. Or I wouldn't have signed up. I wouldn't have,	10:03:32
10	definitely not signed up.	10:03:35
11	Q. So do you always read the terms of use for any	10:03:38
12	app that you download?	10:03:41
13	A. I do, especially if I'm a paid subscriber.	10:03:46
14	Because I want to know how long I'm going to be paying	10:03:49
15	for this service. I don't want to be caught off guard.	10:03:52
16	Q. So by that are you referring to like are	10:03:56
17	there -- sorry. What do you mean by that, speaking	10:04:03
18	about the payment use?	10:04:05
19	MS. GROMBACHER: Object to form.	10:04:08
20	But go ahead.	10:04:10
21	THE WITNESS: Well, if I pay for a service, I	10:04:13
22	need to make sure that is it going to be ongoing so that	10:04:14
23	I know that I'm going to be charged every month on my	10:04:19
24	credit card, not just signing up on a -- like oh, sign	10:04:22
25	up, and then you don't get charged, or you do get	10:04:27

1	THE WITNESS: When I sign up, like I said	10:05:29
2	before, a lot of it has to do with if it's a financial	10:05:31
3	aspect. In this particular situation, I'm signing up	10:05:34
4	for an online dating service. I want to make sure that	10:05:37
5	I'm protected, because it's me. It's my information and	10:05:41
6	it's me. It's everything about me. So is this service	10:05:45
7	that I'm signing up going to represent me and protect	10:05:53
8	me, because it's me. So I'm looking for that in any	10:05:56
9	type of policies and procedures that the company is	10:06:03
10	putting out.	10:06:05
11	BY MS. HARLOW:	10:06:06
12	Q. When you read the Zoosk terms of use or privacy	10:06:06
13	policy, did anything you saw in them affect your	10:06:09
14	decision to join Zoosk and buy a subscription?	10:06:12
15	MS. GROMBACHER: I'll object to form.	10:06:16
16	You can respond.	10:06:17
17	THE WITNESS: No.	10:06:20
18	BY MS. HARLOW:	10:06:20
19	Q. So you testified before that you had a renewing	10:06:29
20	membership every month; right?	10:06:32
21	A. Correct.	10:06:33
22	Q. After you initially signed up, when you had	10:06:38
23	that ongoing subscription, did you ever read the terms	10:06:39
24	of use or privacy policy again, or any subsequent	10:06:43
25	version of it?	10:06:47

1	security incident that happened at Zoosk; is that right?	10:08:15
2	A. Correct.	10:08:16
3	Q. And what is your understanding of what happened	10:08:24
4	in that data security incident?	10:08:25
5	MS. GROMBACHER: I'll object to form. It may	10:08:27
6	involve attorney-client communication.	10:08:34
7	But, Tracy, you can respond as to your general	10:08:36
8	understanding, you know, as best you can.	10:08:41
9	THE WITNESS: My general understanding is that	10:08:46
10	my information, me, my documentation had been basically	10:08:47
11	subjected to a data breach.	10:09:01
12	BY MS. HARLOW:	10:09:02
13	Q. And to your understanding, when did that	10:09:02
14	incident happen?	10:09:04
15	A. Well, I -- when I got this message that --	10:09:08
16	May 26th, that's when I was -- the security that they	10:09:17
17	told me. And then I found out later there was -- that's	10:09:24
18	when I found out it had been previous before then in	10:09:27
19	2020, and I'm still an active member.	10:09:31
20	Q. Okay.	10:09:38
21	So let's look back at that exhibit that we were	10:09:38
22	talking about, which is Greenamyer page 4, Exhibit 37.	10:09:42
23	And before I ask questions about this document	10:09:52
24	I'll just ask, did you ever receive an e-mail from Zoosk	10:09:54
25	in or around June 2020 telling you that your information	10:09:57

1	had been affected in a data security incident?	10:10:02
2	A. I don't recall. I don't recall at the time	10:10:04
3	because I was deleting a bunch of messages. So I'm not	10:10:08
4	sure if I got that or not.	10:10:13
5	Q. Okay.	10:10:15
6	Have you received any other e-mail or	10:10:16
7	notification from Zoosk about the data security incident	10:10:19
8	telling you that your information was affected?	10:10:22
9	A. No, not until I reached out to them.	10:10:24
10	Q. Okay.	10:10:27
11	And when you say when you reached out to them,	10:10:28
12	the response you got is Exhibit 37 that we've been	10:10:30
13	talking about?	10:10:33
14	A. Correct.	10:10:33
15	Q. Okay.	10:10:34
16	So where in this exhibit is the data security	10:10:40
17	incident mentioned?	10:10:43
18	MS. GROMBACHER: I'll object to form.	10:10:51
19	But you can read the document to her if you	10:10:53
20	want.	10:10:56
21	THE WITNESS: Well, pretty much right there in	10:10:59
22	the beginning. "Recent activity may have affected your	10:11:02
23	account's security." Recent? Okay. So, you know,	10:11:06
24	affected my account security. Security. Data. That's	10:11:13
25	me. That information is me. Security is me. So it's	10:11:18

1	addresses in the last ten years?	10:13:59
2	A. No, not besides my work e-mail. I'm pretty	10:14:00
3	much to one e-mail.	10:14:06
4	Q. Okay.	10:14:12
5	Have you ever been the victim of identity	10:14:12
6	theft?	10:14:16
7	MS. GROMBACHER: I'll object to form.	10:14:17
8	But you can respond.	10:14:20
9	THE WITNESS: Not that I recall.	10:14:22
10	BY MS. HARLOW:	10:14:26
11	Q. Have you ever had any fraudulent charges on any	10:14:26
12	bank account or credit card?	10:14:29
13	A. Not that I recall.	10:14:31
14	Q. Do you consider your name, first and last, to	10:14:32
15	be confidential or sensitive information?	10:14:43
16	MS. GROMBACHER: I'll object to form.	10:14:47
17	You can respond.	10:14:48
18	THE WITNESS: I don't understand what you mean	10:14:50
19	by sensitive information.	10:14:51
20	BY MS. HARLOW:	10:14:57
21	Q. So I guess would you be able to answer the	10:14:57
22	question if I just asked you if you considered your	10:15:00
23	first and last name to be confidential?	10:15:03
24	A. Well, it's not confidential. I work with -- I	10:15:06
25	worked in the government capacity. So anybody can look	10:15:08

1	me up.	10:15:11
2	Q. And have you put your first and last name on	10:15:11
3	your Facebook profile?	10:15:15
4	A. I have.	10:15:19
5	Q. Do you consider your e-mail address to be	10:15:19
6	confidential?	10:15:25
7	MS. GROMBACHER: I'll object to form.	10:15:26
8	You can respond.	10:15:28
9	THE WITNESS: I do. I wouldn't have got the	10:15:29
10	two-person security on it.	10:15:34
11	BY MS. HARLOW:	10:15:38
12	Q. So I think we're talking about different	10:15:38
13	things. I'm not talking about your e-mail account, but	10:15:40
14	the address. Is that piece of information something	10:15:47
15	that is confidential, what your e-mail address is?	10:15:49
16	MS. GROMBACHER: Same objection.	10:15:50
17	You can respond.	10:15:51
18	THE WITNESS: Well, it's -- yes. I would	10:15:52
19	assume so.	10:15:54
20	BY MS. HARLOW:	10:15:59
21	Q. Why so?	10:15:59
22	A. If I don't give it out freely. I mean, I have	10:15:59
23	to give it out. Like if I -- I mean, I don't know what	10:16:03
24	you mean by confidential. It's an e-mail. If I give my	10:16:06
25	e-mail information out, then I'm, you know, giving it	10:16:08

1 to -- it's like giving my mailing address. I consider 10:16:11
2 the e-mail address like your home address. Because we 10:16:15
3 receive e-mail now via -- versus we used to get letters. 10:16:20
4 Everything was handwritten. So that's -- I consider it 10:16:26
5 like the same. 10:16:29
6 Q. Okay. 10:16:30
7 Do you provide your e-mail when you sign up for 10:16:30
8 shopping websites? 10:16:36
9 MS. GROMBACHER: I'll object to form. 10:16:41
10 But you can respond. 10:16:43
11 THE WITNESS: Well, I mean, like Amazon, I have 10:16:46
12 to. 10:16:48
13 BY MS. HARLOW: 10:16:49
14 Q. But if you have to from Amazon, you have 10:16:49
15 provided it? 10:16:51
16 A. With Amazon, yes. 10:16:52
17 Q. Does LinkedIn have your e-mail address? 10:16:58
18 A. They do. They also have my work e-mail 10:17:02
19 address. I signed up with my work e-mail address with 10:17:07
20 LinkedIn. 10:17:09
21 Q. Only with your work e-mail? 10:17:12
22 A. In the -- yes. 10:17:15
23 Q. Does LinkedIn currently have your Yahoo e-mail? 10:17:21
24 A. I believe so. I mean, I'm not real sure. I'd 10:17:24
25 have to go back and look. 10:17:29

1	BY MS. HARLOW:	10:21:24
2	Q. Okay.	10:21:25
3	So I think this might be a good time to take	10:21:25
4	another break, stretch a bit more, grab some water, and	10:21:30
5	then we can get back on the record.	10:21:34
6	MS. GROMBACHER: Yes.	10:21:36
7	THE WITNESS: Okay.	10:21:37
8	THE VIDEOGRAPHER: This marks the end of media	10:21:38
9	number 1. Going off the record at 10:20 a.m.	10:21:41
10	(Recess)	10:21:43
11	THE VIDEOGRAPHER: This marks the beginning of	10:37:09
12	media number 2. Going back on the record at 10:36 a.m.	10:37:15
13	BY MS. HARLOW:	10:37:20
14	Q. Welcome back, Ms. Greenamyer.	10:37:22
15	A. Thank you.	10:37:24
16	Q. So how much have you paid to Zoosk for your	10:37:25
17	paid subscription?	10:37:32
18	A. I don't know the total amount. I didn't add it	10:37:32
19	up through the years to the amount every month.	10:37:42
20	Q. When you paid for your Zoosk subscription, did	10:37:44
21	you intend some portion of that payment to pay for data	10:37:47
22	security?	10:37:53
23	A. I thought it was part of the whole process of	10:37:53
24	signing up under that type of a subscription, that they	10:37:55
25	would protect my information and protect me.	10:37:59

1	Q. What portion of the payment you were making did	10:38:03
2	you intend to pay for security for data?	10:38:05
3	MS. GROMBACHER: I'll object to form.	10:38:09
4	Tracy, you can try to answer.	10:38:14
5	THE WITNESS: Well, it's me. They should	10:38:19
6	protect me a hundred percent. It's all my information.	10:38:21
7	It's me. It's no different. It's my name, my	10:38:26
8	information, my profile.	10:38:29
9	BY MS. HARLOW:	10:38:31
10	Q. Right.	10:38:31
11	No, I understand that. I guess the question	10:38:34
12	was, of that subscription payment that you were paying	10:38:37
13	to Zoosk, how much were you intending to pay to make	10:38:41
14	sure that they secured your data?	10:38:45
15	MS. GROMBACHER: I'll object to form.	10:38:49
16	THE WITNESS: I can't answer that. I'm not a	10:38:55
17	tech expert on that.	10:38:57
18	BY MS. HARLOW:	10:38:58
19	Q. Well, I'm just asking what was your subjective	10:38:58
20	intent? Did you intend any particular portion to be for	10:39:01
21	security as opposed to some other aspect of the service?	10:39:06
22	MS. GROMBACHER: I'll object to form.	10:39:09
23	You can respond.	10:39:10
24	THE WITNESS: Like I said, a hundred percent.	10:39:11
25	It's me. My profile is me, a hundred percent me. So	10:39:13

1	they should protect me a hundred percent.	10:39:22
2	BY MS. HARLOW:	10:39:24
3	Q. A hundred percent of what?	10:39:24
4	A. It's my information. It's me. It's Tracy	10:39:31
5	Greenamyers. I'm signing up for a service that says --	10:39:35
6	it's virtual me. It's all of me. They should protect	10:39:38
7	me a hundred percent. If I'm signing up for a dating	10:39:42
8	service, I want that service to represent me a hundred	10:39:46
9	percent, protect me a hundred percent. I'm meeting	10:39:49
10	other people as me, not me as in like buying something,	10:39:52
11	doing something. I am being myself to meet somebody	10:39:57
12	else. They should protect me a hundred percent.	10:40:01
13	Q. Okay.	10:40:04
14	I'm sorry I keep coming back to the same	10:40:07
15	question because I don't quite understand your answer to	10:40:10
16	it.	10:40:13
17	So are you saying that one hundred percent of	10:40:13
18	what you paid was for that protection, or they should	10:40:18
19	protect one hundred percent of your data? What exactly	10:40:23
20	are you saying?	10:40:25
21	A. It should be all inclusive. Yes. A hundred	10:40:25
22	percent of what I paid, the fee that I paid, should be	10:40:28
23	protecting all of me and all of the information that I	10:40:33
24	am putting out there because that is me. I'm that	10:40:35
25	person. I'm putting myself one hundred percent out	10:40:38

1 there as Tracy Greenamyre to date somebody. They should 10:40:41
2 protect that. They should protect all of that 10:40:46
3 information. They should protect all of me. And that's 10:40:49
4 what -- when I signed up, that's what I, you know, said, 10:40:52
5 okay, they're going to protect me. This company -- I 10:40:58
6 wouldn't have put myself out there. I wouldn't have 10:41:03
7 gone with Zoosk if I would have known that they're not 10:41:05
8 going to protect a hundred percent of me, Tracy 10:41:07
9 Greenamyre. Because I'm dating somebody. I'm trying to 10:41:10
10 find somebody. If I would have known they weren't going 10:41:13
11 to protect me, I wouldn't have went with them. I would 10:41:15
12 have been like no, I'm not going to go with them. I 10:41:17
13 don't feel safe with them. It's like going in a car 10:41:20
14 with a stranger. Am I going to go in a car with a 10:41:21
15 stranger? No. I want somebody that's going to protect 10:41:24
16 me. That's me. 10:41:29
17 Q. Sorry to cut you off. 10:41:30
18 Earlier this morning when we were talking about 10:41:32
19 you decision to pay for a subscription, you said that 10:41:35
20 one of the benefits for a paid subscription was being 10:41:37
21 able to communicate with other users. Do you remember 10:41:41
22 that? 10:41:43
23 A. Right. 10:41:43
24 Q. What portion of the payment you were making to 10:41:44
25 Zoosk was to be able to communicate with others? 10:41:46

1	whole thing. I don't understand like how -- you're	10:44:22
2	trying to separate that. I can't put a -- it was all	10:44:26
3	together.	10:44:35
4	BY MS. HARLOW:	10:44:35
5	Q. What security measures did you think you were	10:44:35
6	paying for when you paid for your subscription?	10:44:37
7	MS. GROMBACHER: I'll object to form.	10:44:40
8	You can respond as to your understanding.	10:44:41
9	THE WITNESS: Well, my understanding is they	10:44:43
10	would keep my information private. You know, it would	10:44:48
11	be contained within the dating -- the application of	10:44:52
12	communication between, you know, other people, between	10:44:56
13	the company. You know, I would -- that's what I'm	10:45:03
14	signing up for. It's like I'm going into a private	10:45:11
15	room. I want to make sure that there's no other	10:45:14
16	listeners in or they're not going to, you know, put me	10:45:18
17	somewhere else I'm not supposed to be.	10:45:22
18	BY MS. HARLOW:	10:45:23
19	Q. Were you paying for Zoosk to keep your password	10:45:24
20	for your Zoosk account safe?	10:45:28
21	MS. GROMBACHER: Object to form.	10:45:32
22	You can respond.	10:45:33
23	THE WITNESS: Like I said before, it's all	10:45:34
24	inclusive; security, password, the whole deal. I can't	10:45:43
25	separate any of that.	10:45:46

1 you got notice of when you communicated with Zoosk in 10:49:23
2 2021 and one is the earlier breach that this litigation 10:49:28
3 is suing on. Why do you believe your data was taken in 10:49:34
4 the prior breach, or compromised in the prior breach, I 10:49:42
5 should say? 10:49:47
6 MS. HARLOW: Objection to form as to the 10:49:47
7 preamble, but not to the question. 10:49:49
8 Please go ahead. 10:49:51
9 MS. GROMBACHER: Okay. 10:49:52
10 THE WITNESS: Well, I had an active account. 10:49:52
11 And when I went onto my account during that other time 10:49:57
12 and when I found out I was -- no longer had an account, 10:50:00
13 that is when I took security measures on my behalf, like 10:50:08
14 what is going on. I'm researching, is there anything 10:50:12
15 going on with Zoosk, this company. That's when I found 10:50:20
16 out about the prior breach. That's when I was very 10:50:23
17 upset because of the way that Zoosk handled their 10:50:25
18 response to me, the way that they handled everything. 10:50:28
19 And I started taking the necessary security actions on 10:50:32
20 my behalf, getting a company, you know, to like monitor. 10:50:38
21 Now I'm on the dark web, trying to find out the dark web 10:50:44
22 information. It's the same time frame that I had the 10:50:48
23 account with Zoosk. I mean -- and I had to cancel my 10:50:51
24 credit card. I mean, I did -- so my whole thing was 10:50:53
25 security. My whole thing with Zoosk is that it's more 10:50:58

1	than probable I was part of that. Never got any	10:51:03
2	information. If this happened again or -- you know,	10:51:06
3	obviously, something happened because they canceled my	10:51:11
4	account. And that triggered me to go into further. And	10:51:13
5	by that information, in doing so, I had to go through a	10:51:17
6	lot of steps. And now I have to protect myself because	10:51:20
7	my name is on the dark web. It was never ever on there.	10:51:23
8	How -- you know, so for me to take all the necessary	10:51:29
9	steps in doing my due diligence as a consumer, because a	10:51:35
10	company failed to do what they were supposed to do, in	10:51:41
11	however many incidents, I don't know. But I'm just	10:51:47
12	saying that I did a lot of research after. It's why I	10:51:52
13	reached out. It's -- and I do feel that, you know, it	10:51:57
14	was just a continuation.	10:52:05
15	BY MS. GROMBACHER:	10:52:11
16	Q. Okay. You said a lot there.	10:52:11
17	You mentioned being on the dark web. Why do	10:52:15
18	you think your information is on the dark web?	10:52:19
19	A. I feel that my information is on the dark web	10:52:20
20	because of this security information with Zoosk.	10:52:26
21	Because after I had, you know, canceled my credit card	10:52:32
22	and after I was able to purchase a -- through, actually,	10:52:39
23	my employer, and they could go back and see if any of my	10:52:47
24	information was compromised. And it was, and it's the	10:52:51
25	same time frame as this incident when I reached out to	10:52:54

1	Zoosk.	10:52:59
2	Q. And when you say the same time frame that your	10:52:59
3	data was on the dark web, you're referring to the	10:53:03
4	2020 -- the earlier incident; is that correct?	10:53:05
5	A. Yes, that's correct.	10:53:07
6	Q. If you had known about the earlier data breach	10:53:08
7	where your information was compromised, would you have	10:53:13
8	continued to be a paid subscriber of Zoosk?	10:53:16
9	MS. HARLOW: Objection to form.	10:53:20
10	But please go ahead.	10:53:21
11	THE WITNESS: Absolutely not. No, I wouldn't	10:53:22
12	have been a paid subscriber.	10:53:27
13	BY MS. GROMBACHER:	10:53:35
14	Q. If you had known about the security breaches	10:53:35
15	we've alleged in this litigation, would you ever have	10:53:38
16	been a paid subscriber of Zoosk at any time?	10:53:42
17	A. No. I would have canceled right away. I would	10:53:46
18	have canceled my subscription.	10:53:51
19	Q. In -- during the time of the earlier breach,	10:53:52
20	did you notice any increase in fishing e-mails or spam	10:54:25
21	e-mails on your Yahoo account that was associated --	10:54:31
22	your Yahoo e-mail account that was associated with the	10:54:35
23	Zoosk account?	10:54:37
24	A. I noticed there was an increase in just like --	10:54:38
25	I want to say -- because they had my number, my phone	10:54:52

REPORTER'S CERTIFICATION

I, Michelle K. Bailey, Certified Shorthand Reporter, in and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this 27TH day of MAY, 2021.



Michelle K. Bailey

RPR, CSR No. 10713